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# Hughes

**MARINE FIRMS** April 29, 2004

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Docket Management Facility  
(USCG-2003-14472/MARAD  
-203-15171)  
US Dept of Transportation  
400 7<sup>th</sup> Street NW  
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Washington, DC 20590-0001  
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USCG-2003-14472-11

MARAD-2003-15171-10

To: Sir or Madam

Thank you for allowing us to comment on the Lease Financing NPRM.

We are a fifth generation, family owned barge company, based in New York harbor. We own and operate 70 barges which are primarily used to support construction and dredging operations on the Atlantic and Gulf coasts of the United States. Our family is, and always has been, US citizens and our vessels fly the US flag.

The Jones Act is vital to our continued existence. Since its inception, we have added vessels to our fleet using the Jones Act as our cornerstone. We have built all of our vessels in US yards (when it might have been less expensive to build those same vessels abroad). Any of our manned vessels are manned by US citizens and as noted; our family has always been US citizens. We have followed the provisions of the Jones Act and now have a substantial investment in Jones Act qualified vessels. Ours is a capital-intensive business, which depends on our ability to build new barges to replace those being retired or sold. We have invested well over \$5,000,000 since 1996, when the lease financing provisions were enacted. We have never had a problem finding US banks and finance companies to underwrite this investment.

We have obeyed all of the laws in building our fleet and consider it grossly unfair for Congress and the US Coast Guard to allow some foreign operators to use loopholes in the financing act to circumvent the US ownership provisions of the Jones Act.

Our company supports the comments made to you by AWO (The American Waterway Operators) and the Maritime Cabotage Task Force. We will not repeat their comments in detail but we ask that you do the following to close the existing loophole.

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CLEARING HOUSE FOR MARINE DIFFICULTIES

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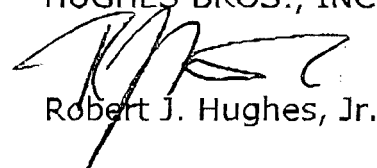
Adopt Alternative 2 prohibiting charter-back arrangements (in which a lease financed vessel is chartered back to the vessel owner or member of the owner's group of companies), except when the vessel is engaged in carrying proprietary cargo for the owner or a member of the owner's group. Unless this is done, foreign vessel owners will still be able to control vessels used in the domestic trade, despite the clearly expressed intent of Congress to prevent it. Charter-back arrangements for the carriage of proprietary cargo should be reviewed by MARAD to ensure that implementation of the proprietary cargo exception is properly administered.

Establish a three-year limit on the grandfather provisions contained in the lease financing final rule (which provided an open-ended grandfather for vessels previously documented under the lease financing provision). Three years is ample time for a vessel owner to restructure his investment to ensure compliance with the regulations.

Ensure that the Coast Guard has access to the expertise it needs to evaluate whether an application for documentation meets the standards of the regulations. The Coast Guard should establish a procedure in which applications that meet certain defined criteria are subject to public notice and comment. This process should be triggered if the applicant is affiliated with a non-citizen vessel owner or operator or if the lease-financed vessel will be subject to a charter-back arrangement. In addition, the Coast Guard should be free to contract with third-party auditors as needed to assist in its review of applications for documentation.

We wish to thank the USCG and MARAD for the opportunity to comment on this important issue. We note that the Coast Guard's February 4<sup>th</sup> final rule takes a major step toward closing the loophole that has placed US control of the domestic fleet in jeopardy. The job is not yet done. It is essential that the Coast Guard and MARAD take prompt action to resolve this issue. We ask that you quickly correct this rule so that we can continue meaningful investments in our fleet.

Sincerely,  
HUGHES BROS., INC.



Robert J. Hughes, Jr.

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